IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.1484 of 2008
RAMA SHANKAR DUSADH @ RAMA SHANKAR PASWAN
Versus
1. STATE OF BIHAR

2. GANGARATI DEVI
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2 18.12.2008 This revision has been preferred against the judgment and order dated 20.9.2008 passed by 1st Additional Sessions Judge, Rohtas at Sasaram in Criminal Appeal No. 74/16 of 1988/1993 thereby the conviction and sentence dated 20.2.1988 passed by Sri Navin Kumar Sinha, Judicial Magistrate, 1st Class, Sasaram in G.R.Case No.1661/84 Tr.No. 68/88 has been affirmed.

The learned Magistrate vide aforesaid judgment dated 20.2.1988 convicted this petitioner under Section 326 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for one year.

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Heard learned counsel for the petitioner and the State.

The only submission of learned counsel for the petitioner is that the petitioner has already remained in jail custody for more than one year but in spite of that he has not yet been released giving benefit of provision of Section 428 of the Code of Criminal Procedure.

Considered the submission of learned counsel for the petitioner. Perused the judgments of both courts as well as Section 428 of the Code of Criminal Procedure.

While affirming the conviction of the petitioner passed by the lower court, the concerned authority is directed to set off the

period already undergone by this petitioner against the term of imprisonment imposed by the court below under Section 428 of the Code of Criminal Procedure. If the petitioner has already remained in jail custody for more than one year, he shall be released at once, if not wanted in any other case.

Let this order be communicated to the court below through FAX on the cost to be deposited by the petitioner.

In the result, this application is dismissed with above modification.

**B.Jha** **(Ghanshyam Prasad)**

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